



**U.S. Army Corps
Of Engineers**
Walla Walla District
201 North Third Avenue
Walla Walla, WA 99362-1876

Public Notice:

Application for Permit

APPLICATION NO.: NWW- 2022-157-I02

WATERWAY: Wetlands adjacent to Marsh Creek

APPLICANT: Brandon Olson

DATE ISSUED: November 17, 2022

END DATE: December 17, 2022

30-Day

NEW PERMIT APPLICATION

Interested parties are hereby notified that the Walla Walla District has received an application for a Department of the Army permit for certain work in Waters of the United States, including wetlands, as described below in the attached documents:

- **NWW-2022-157 – Project Drawings and Figures.pdf**

APPLICANT: Brandon Olson, 19746 South Olson Road, Downey, Idaho 83234

U.S. ARMY CORPS OF ENGINEERS PROJECT MANAGER: Jeffrey Nield, Idaho Falls Regulatory Office, 900 North Skyline Drive, Suite A, Idaho Falls, Idaho 83402, 208-522-1645, jeffrey.a.nield@usace.army.mil

PURPOSE: To expand the existing peat mining operation to extract additional peat moss for commercial sale.

WATERWAY: Wetlands adjacent to Marsh Creek.

LOCATION: The proposed project would be located in wetlands adjacent to Marsh Creek, within Section 12, Township 11 South, Range 37 East, near latitude 42.4362° N and longitude –112.1877° W, in Bannock County, near Downey, Idaho.

DRIVING DIRECTIONS: From the city of Pocatello, drive south on I-15 for approximately 38.2 miles to exit 31, turn west on E. Treasure Lane, then turn north on Tool Road and project location is on the west side of the road.

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AUTHORITY: This permit will be issued or denied under the authority of Section 404 of the Clean Water Act (33 U.S.C. 1344). A Department of the Army permit is required for the discharge of dredged or fill material into waters of the United States, including wetlands.

WORK: The proposed work includes the excavation of approximately 210,000 cubic yards of material in palustrine emergent (PEM) wetlands, resulting in the discharge of fill and dredged material within 13 acres of adjacent wetlands to Marsh Creek. A long under-carriage excavator and specialized high-flotation tractors with modified dump trailers will be used to harvest peat from the wetlands. The harvested peat will be temporarily stored in wetlands until enough material is obtained to fill a dump truck, which will then be hauled to uplands to a stockpile area for processing. The temporary stockpiling will only occur during active harvesting of peat and will result in 2-3 cubic yards of harvested peat temporarily stored in wetlands at a time. Temporary stockpiling would largely occur in areas that would be mined. Native overburden that sits on top of the peat (typically 6-12 inches in depth) will be stripped with an excavator prior to removal of the peat. Upon removal of the peat, the native overburden will be discharged back into the excavated areas resulting in a pond and wetlands to maintain equipment access and eliminate ruts. The proposed work also includes the construction of an access road in uplands to the site, which will be used by equipment and trucks to access and remove the excavated peat.

ADDITIONAL INFORMATION: The excavated peat will be temporarily stored on the banks of the excavated pond in wetlands until it can be removed by dump trucks. The peat will be hauled to an upland location nearby and stockpiled until it can be processed and hauled away for consumer use.

CONSTRUCTION PERIOD: Applicant proposes to start construction in 2022 and work is estimated to be completed by December of 2042. The permit would authorize construction for a period of 20 years.

PROPOSED MITIGATION:

The applicant is not proposing compensatory mitigation for the project. The application states that the project activities are self-mitigating, as the activities result in a conversion from wetlands to open water that create an ecological value to waterfowl and other wildlife in the area.

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OTHER ENVIRONMENTAL DOCUMENTS AND DA PERMITS ISSUED TO

APPLICANT: A Department of the Army permit was issued in 1996 to begin mining of wetlands for peat. A re-authorization of the 1996 permit for modifications was issued in 2005, and permit extension was issued in 2015. The previously authorized work was at an adjacent location, and this proposed action will be an expansion of the existing facility.

WATER QUALITY CERTIFICATION: This notice will also serve as a Public Notice that the Idaho Department of Environmental Quality (IDEQ) will be evaluating whether to certify that the discharge of dredge and/or fill material proposed for this project will not violate existing water quality standards. A Department of the Army permit will not be issued until water quality certification has been issued or waived by the IDEQ, as required by Section 401 of the Clean Water Act. Comments concerning Water Quality Certification for this project should be mailed to:

Idaho Department of Environmental Quality, Pocatello Regional Office
444 Hospital Way, #300
Pocatello, Idaho 83201
Or emailed to Matthew Schenk at: matthew.schenk@deq.idaho.gov

SECTION 401 (A)(2) NEIGHBORING JURISDICTION: Per 33 CFR 325(b)(1)(i), this public notice serves as notification to the Environmental Protection Agency that the Corps will provide a copy of IDEQ's water quality certification, if issued, initiating EPA's 30-day review period under Section 401(a)(2).

AQUATIC RESOURCE DESCRIPTION: The proposed work would impact 13 acres of Palustrine Emergent (PEM) wetlands. The project site and adjacent land consists of cropped wet pasture and hay lands, which results in frequent land disturbance and a modified plant community. Sometime in the past Marsh Creek was relocated to its current location and a drainage ditch was dug parallel to the creek in an attempt to drain the surface waters from the adjacent land. The creek relocation and drainage ditch construction are believed to have occurred sometime before passage of the Clean Water Act. However, the current land use and the previous relocation of Marsh Creek and construction of the drainage ditch have more than likely contributed to the quality of the current aquatic resources.

ANTICIPATED IMPACTS ON AQUATIC ENVIRONMENT: The peat material that is being harvested, is caused by decomposed/decomposing vascular plants. The decomposition produces tannic acids which, when disturbed, can discolor the exposed

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surface and ground waters. There is very little gradient in the valley, which results in low velocity flows in Marsh Creek and other tributaries. This also results in a depositional environment for sediment and organic matter. Under normal spring runoff conditions, Marsh Valley experiences frequent flooding of the valley floor and adjacent land to Marsh Creek, including the project site. Due to the frequent and widespread flooding of the valley floor, it is expected that the project ponds will contribute discolored water to Marsh Creek. Upon completion of project activities, approximately 13 acres of emergent wetlands will be converted and replaced with open water.

OTHER AUTHORIZATIONS: N/A.

CULTURAL RESOURCES: Coordination is currently being conducted with the office of the Idaho State Historic Preservation Officer to determine if this activity will affect a site that is listed on the National Register of Historic Places, or a site that may be eligible for listing on the Register. We are also coordinating with the appropriate Tribal entity or the Tribal Historic Preservation Offices for the Shoshone-Bannock Tribes, to determine if there are any tribal historic or cultural interests within the project area.

TRIBAL TREATY RIGHTS and INTERESTS: Federal agencies acknowledge the federal trust responsibility arising from treaties, statues, executive orders and the historical relations between the United States and American Indian Tribes. The federal government has a unique trust relationship with federally recognized American Indian Tribes, including the Shoshone-Bannock Tribes. The Corps has a responsibility and obligation to consider and consult on potential effects to Tribal rights, uses and interests. The Corps further recognizes there may be a need for additional and on-going consultation.

ENDANGERED SPECIES: No listed threatened or endangered species or designated critical habitats are known to exist in the project area. Coordination may be conducted with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS/NOAA Fisheries Service) to determine if the activity will have any effect on species designated as endangered or threatened under the Endangered Species Act, or their critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844; 16 U.S.C. 1531 et.seq.).

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, permitted, funded or undertaken by the agency that may adversely

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affect Essential Fish Habitat (EFH). There is no designated EFH in the project area. Preliminarily, we have determined the described activity would have no effect on EFH.

ENVIRONMENTAL IMPACT STATEMENT: Preliminary review indicates the proposed activities will not require preparation of an Environmental Impact Statement. Comments provided will be considered in preparation of an Environmental Assessment.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. This decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and in general, the needs and welfare of the people. In addition, our evaluation will include application of the EPA Guidelines (40 CFR 230) as required by Section 404(b)(1) of the Clean Water Act.

CONSIDERATION OF PUBLIC COMMENTS: The Corps of Engineers is soliciting comments from the general public; Federal, State and local agencies and officials, Tribal entities and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

PUBLIC HEARING: Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposed activity. Requests for a public hearing shall state specific reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

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COMMENT & REVIEW PERIOD: Interested parties are invited to provide comments on the proposed activity, which will become a part of the record and will be considered in the final decision.

Please mail all comments to:

U.S. Army Corps of Engineers

Walla Walla District

Jeffrey A. Nield

Idaho Falls Regulatory Office

900 N Skyline Drive, Suite A

Idaho Falls, Idaho 83402-1700

jeffrey.a.nield@usace.army.mil

Comments should be received no later than the comment due date of December 17, 2022, as indicated on this notice, to receive consideration.